

MINUTES
ZONING BOARD OF APPEALS
March 25, 2021 at 6:00 PM
(held virtually via Zoom at 15 Summer St)

Members Present roll call: Dennis Ackerman, Wayne Berube, Craig Faria, George Moniz, Steve Vieira, and Scott Rodrigues,

Meeting opens at 6:05 PM

Chairman Ackerman read statement: "Tonight's Zoning Board of Appeals" meeting is being conducted remotely consistent with Gov. Bakers Exec. Orders due to the current State of Emergency in the CW.

In order to mitigate the transmission of the COVID-19 virus, we have been advised and directed by the CW to suspend public gatherings, and as such, the meetings in a publicly accessible physical location.

Accommodations for public access have been made via livestreaming, and this meeting is also being recorded.

This evening there is also a public hearing. Anyone wishing to make a public comments can call 774-406-5261 when we get to that portion of the hearing."

Case # 3587 Malloch Construction Co. 104 Hart St
For A Variance from Section 440- Attachment #3 and Section 440 – 602 of the Zoning Ordinance for the division of one lot into two lots, with one lot having 87 feet of frontage (instead of 100 feet) and 84.59 feet of lot width at the building setback line (instead of 100 feet)

For the Petitioner: Atty. Edmund Brennan, 174 Dean ST., Unit B. Taunton, Ma.
Carl Malloch, Malloch Construction Co. 113 Padelford St., Berkley, Ma.

In favor: Chery Titus, 104 Hart St., Taunton, Ma.

Opposed: Eric Amaral, 112 Hart St., Taunton, Ma.
Josephine Rizzo, 108 Hart St., Taunton, Ma.
Josua Amaral, 104 Hart St., Taunton, Ma.

Atty. Brennan stated the parcel contains 4 ½ acres and the existing house is tucked in the southwest corner of the property leaving the rest of land. The intention is to construct duplexes by a subdivision with the Planning Board. They are proposing 6 lots with a duplex on each lot. Chairman Ackerman said they can put a restriction if they want because he consulted with the law dept. The lots will be all conforming lots and the reason they are here tonight is to seek relief for the existing house lot. Atty. Brennan

stated the proposal will fit in good with the neighborhood. Wayne stated he likes this proposal because it's not oversaturated. Letter from Cheryl Titus, and Eric Amaral were read into the record. Public Input : Eric Amaral, 112 Hart St. stated this neighborhood is congested and he feels they don't need any more houses in the area due to the traffic problems. Public input closed. Atty. Brennan stated they will need to go to the Planning Board and they are sometimes inclined to grant routine waivers. Letters from the City Engineer, Planner, Conservation Commission, and Board of Health were read into the record.

Motion made and seconded to grant as presented with the following condition:

1. The applicant stated the proposal is to develop the newly created parcel into 6 conforming lots with a maximum of 2 units per lot. The Board voted to approve the request based on the proposal limiting the density to 2 units per lot as presented.

Vote; Berube, Faria, Moniz, Vieira, Ackerman....Yes
Petition granted

Case # 3591

Glover & Silva

135 Briggs St.

For: A Variance from Section 440 Attachment #3 and Section 440 – 602 of the Zoning Ordinance for the division of one lot into two lots. Lot 1 having the existing dwelling with a 9 foot side setback for the existing garage (instead of 15') and Lot 2 having 20.1 feet of frontage & lot width (instead of 100')

For the Petitioner: Roy DeLano, Lighthouse Land Survey, 27 Jefferson St., Taunton, Ma.

In favor: None

Opposed: Petition signed by 15 residents.

Andrew Mirka, 125 Briggs St., Taunton, Ma.

Clifford Calixte, 71 Dwinell Rd., Taunton, Ma.

Jane Cahill, 121 Briggs St., Taunton, Ma.

Kevin Gracia, 590 Cohannet St, Taunton, Ma.

Aurea Martinez, 119 Briggs St., Taunton, Ma.

Roy stated the Board continued this from last month after abutters called in and a certain Board member questioned the testimony and what was true or not. Roy reported the house was in foreclosure and there was a letter from the owners which he stated he had permission to that letter read into the record. Wayne stated that any witness is duly sworn to tell the true and every board member has a right to dive into the testimony. George asked about this case and it was stated he would not voting on this because he wasn't here last month. It was noted that there was a problem with the telephone and public input so the Board needed to have another meeting to allow public input which was March 11th. Roy stated the petitioner gave him permission to read their letter into

the record. Chairman Ackerman read letter into the record. Scott heard the case from last meeting so he will be voting on this. Roy asked if everyone remembers the presentation from last month and everyone answered yes. Roy stated information was brought during the Feb. 25th meeting and then it was brought up that the facts might not have been accurate. Wayne said no one thought that the was being untruthful . Roy stated that he has mortgage statements and everything if the board wishes to see it. There was some discussion between Roy and Wayne about what was testified and what some people think of it as being true facts. Roy stated he presented his case and the vote was 4 in favor 1 opposed based on the merits the case. He stated he performed survey and they needed variance and a hardship exists owing to the soils, topography and shape of the lot. Roy stated he must have successfully demonstrated there was a hardship because the vote was 4 in favor. 1 opposed . And then after the February 25th meeting letters came n from abutters but at that meeting no board members had any concerns with the exception of a board members didn't like the driveway. Roy reference a similar case Johnson Street and 91 Crane Ave. South. Roy stated the abutters who wrote in after the February 25th meeting out of the 6 signatures, 3 are from the same household and others are not direct abutters. 125 Briggs Street is next door which has 2 lots and it about 250 feet away . Roy explains how the elevations in the whole neighborhood was built to the satisfaction of the city engineer and conservation. Roy stated the concern from 120B Briggs street is about 300 feet away. 137 Briggs Street is a direct abutter and is about 8 feet higher in elevation and the majority of abutters on Cohannet Street abutters about 300 feet away. Dwinell Rd. is about 115 away from where the proposed house would be going. Public Input: Cliff Calixte, 71 Dwinell Rd stated his property is 3 feet higher in elevation and it was the last lot built and the squeezed it in. Roy said they will add a 10 foot no cut buffer 70 feet along their property line and 50 feet along the right side. #133 Briggs Street is no opposed but they will be willing to put planting or fencing. Roy said if approved they would need to go to the P.B. for a Form J and then conservation commission. He sated the proposal is not going to impact the neighborhood. Chairman Ackerman stated he's in favor of a duple. Wayne said he visited the site and walked around and based on the original hearing, heard abutters concerns he doesn't like the pork chop lot. He sympathizes with the petitioners because many have been impacted by covid. He considered the land, soils, shape, financial hardship and abutters input and he's not in favor of this. Steve voted against it last meeting because this lot is a results of a division of lot 133 and 135 and it created an irregular shaped lot. Scott and Craig had no comments.

Motion made and seconded to grant as presented with the following conditions:

1. Each lot must be serviced by municipal sewer and water.
2. Single family only on Lot 2
3. A six foot fence shall be installed on Lot 1 along the northwest side of property (a distance of 227.25 feet)

Vote: Berube, Vieira, Ackerman,NO
 Faria, Rodrigues.....Yes

Petition Denied

Case #3595 **Melenciano** **22 Oak St.**

A variance from Section 440 Attachment #3 of the Zoning Ordinance for the existing dwelling to have a 5 foot front setback (instead of 25 feet)

Need to continue due to failure of advertising.

Motion made and seconded to continue to next month.

Vote: Ackerman Berube, Moniz, Faria, Vieira....Yes.

Petition continued.

Case # 3596 **Stylos** **15 Court ST**

For :A Variance from Section 440-Attachment 3 & 440-706 of the Zoning Ordinance to allow a three foot setback for an archway and to allow a 40 sq. ft. electronic message sign which will exceed the maximum allowable square footage allowed and result in a third free standing sign on the premises situated at **15 Court Street, Taunton, MA.**

For the Petitioner: Alex Stylos, 15 Court St., Taunton, Ma.

In favor: None

Opposed: None

Mr. Stylos stated they started outdoor concerts last year due to covid and not be able to be inside. They provide local artist the opportunity to perform in Taunton and their customers go in the back of the building to enjoy the music. They are proposing an archway (similar to that to the existing one that was just put up downtown by the city) to let me people know about the background concerts. He's aware of the comments from the City department relative to the alleyway and DCAM. He stated there will be no excavation for this proposed sign. It will be attached to the two buildings. He stated a local artists created this archway. He has spoken to Alex Rich and he as agreed to allow the archway to be attached to his building and the District building. The alley way is about 19 feet wide and the signs lowest point is 13 feet. They have 42 outdoor shows scheduled for this year. Chairman Ackerman suggests having a clearance of 14 feet to accommodate large trucks. Alex stated he will go to DCAM and do what they want. Chairman Ackerman stated they could approve subject to approval from DCAM. Letters from the City Engineer, Planner Conservation Commission and Board of Health were read into the record. George asked if 14 feet was high enough? Wayne stated the Fire dept. Had no comment. Alex stated he explained what he wanted to do with to the Bristol County Commissioner's and they had no issues with it. Scott asked if the sign would have sponsor name on it and Alex stated yes it would be illuminated scrolling.

Public Input: No one in favor or against.

Motion made and seconded to grant as presented with the following conditions

Atty. Correira stated the request has **been amended showing the re-configuration of 4 lots into 2 lots on plans dated March 24, 2021. Lot A having 133.62 feet of frontage and 46,300 sq. ft. of lot area with 42,030 sq. ft. of dry area. Lot B having 42.34' of frontage and lot width.** She stated the original proposal required 10 variances and now they need 5 variances. They reduced the lots from 3 lots to 2 lots. Lot B has the existing home and lot A will have a single family dwelling with city water and on-site sewer. They will access from Alfred Lord Blvd. The revised plans shows there will be no adverse affect to the wetlands. They have an emergency turnaround on the plans. Brad stated they 20 foot driveway will be from Alfred Lord Blvd. and it will be meet all the fire dept. requirements. Atty. Correira stated they addressed the City Planner's comments. Chairman Ackerman read dept. letters from the Eng., Water, City Planner, Conservation Commission, Fire Dept and B.O.H. Public Input: Sara Cavanaugh, 13 Worcester St. opposed, Darrell Medeiros, 11 Worcester St. opposed. Wayne asked about lot C and it was explained they combined that lot so now it's only 2 lots. Stacey Nepini, 144 Alfred Lord Blvd. stated the new lot would be along her property line and she wanted to know about the no cut zone. It was mentioned they would have a 15 foot wide no cut zone along her property line, a distance of 15 feet. Brad stated most of the abutters concerns were based on a road going in. Mary Reilly, 131 Alfred Lord Blvd stated her house was the first built and there has been water problems. There is a brook in the back. It was stated they would need to go to conservation. The septic system will be behind 144 alfred lord blvd. And not near the road. Brad stated since they changed the plans they need a 21 foot sideline variance and is requesting that as part of the amended proposal. Kathleen Merrier, 10 ½ Worcester St. stated they have a terrible water problem but this proposal looks better.

Motion made and seconded to grant as presented with the following conditions:

1. The variance on lot A shall be for a 21 side setback as shown on new plans.
2. A 15 foot wide No Cut Buffer on lot B shall be shown for a distance of 158.15 feet (along the back of property I.D. 44 – 15)
3. The ownership of Falmouth Ave shall be resolved prior to any building permits being issued.

Vote; Berube, Faria, Moniz, Vieira, Ackerman....Yes
Petition granted

Case # 3599 Cabral 11 Powers Ave. & 38-220,
For : A Variance from Sections 440-602 & 440 Attachment #3 of the Zoning Ordinance for the division of one lot into two lots which have merged for zoning purposes. Parcel 38-220 having 7,216 sq. ft. lot area & dry area (instead of 15,000 sq. ft. lot area & 11,250 sq. ft. dry area) with 93' of lot width (instead of 100') parcel 38-221 having 4,279 sq. ft. lot area & dry area (instead of 15,000 sq. ft lot area & 11,250 sq. ft. dry area) with 40 feet of frontage & 39.70 feet of lot width (instead of 100') on premises at **11 Powers Avenue**

also known as property I.D. 38-221 and property I.D. 38-220, Taunton, Ma owned by Joshua Cabral.

For the Petitioner: Atty. Brianna Correia, 123 Broadway, Taunton, Ma.
Joshua Borden, Arthur Borden & Associ. 302 Broadway, Raynham, Ma.

In favor: Kari Ann Coutte, Trustte of the Kari Ann Coutte Trust for Mador Ave. Parcel 38-229

Joseph Peixoto, Mgr. of JLI, LLC owner of 3 Mador Ave.,Taunton, Ma.

Opposed: None

Atty. Correia stated the Cabral family has owned this property since 1991 and the lots have merged for zoning purposes. The applicant's dad lost his wife and now the son is getting things in order for father. The existing 3 family home is on a smaller lot of which they wish to live close by to monitor it. The existing house has 4,279 sq. ft. with pre-existing 40 feet of frontage along Mador Ave. with 3-4 parking spaces. They ae proposing 5 spaces which is less non-conforming that what it is now. Atty. Correia stated if approved this will allow the applicant's dad to downsize and build a house for himself to live while monitoring the existing 3 family. Atty. Correia stated the hardship is the shape of the lots and if approved it will allow family to remain close by. She pointed out there are several multi-family houses in the area. George asked how many parking spaces does the 3 family have? Atty. Correia answers 5 spaces and George thought you need 2 per unit? Atty. Correia stated they are adding one more space to they are actually making it more conforming. Public Input: Letter from Cari Ann Coutte and Joseph Peixoto. It was noted they would not need a form J because there are not lot line changes. Public Input : No one opposed. Public Input closed.

Motion made and seconded to grant as presented with the following conditions:

1. New house must be serviced by water & sewer
2. Submit recorded access easement & 81X plan to the ZBA Office

Vote; Berube, Faria, Moniz, Vieira, Ackerman....Yes
Petition granted

Meeting adjourned at 8:20 PM